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255 Westminster Street
Providence, Rhode Island 02903-3400

Enclosure 6b1
December 4, 2018

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December 4, 2018

TO: Members of the Council on Elementary and Secondary Education

FROM: Amy Beretta, Appeals Committee Chair

RE: Approval of Appeals Committee Recommendation on the matter of
Warwick School Committee v. Joseph Bleczinski

The Appeals Committee of the Council on Elementary and Secondary Education met on November 5, 2018, to hear oral argument on the appeal of the following Commissioner decision:

Warwick School Committee v. Joseph Bleczinski

RECOMMENDATION: THAT, in the matter of Warwick School Committee v. Joseph Bleczinski, the Commissioner's decision is affirmed, as presented.

Telephone: (401) 222-8435 **Fax:** (401) 222-6178 **TTY:** (800)745-5555 **Email Address:** infoboe@boe.ri.gov

Website: www.ride.ri.gov/BoardofEducation

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STATE OF RHODE ISLAND

**COUNCIL ON ELEMENTARY
AND SECONDARY EDUCATION**

JOSPEH BLECZINSKI

vs.

WARWICK SCHOOL COMMITTEE

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DECISION

This is an appeal by the Warwick School Committee (“WSC”) from the decision of the Commissioner of Education (“Commissioner”), dated June 15, 2018, whereby the Commissioner ordered that WSC administrator Joseph Bleczinski (“Mr. Bleczinski”) be reinstated to his assistant principal position and compensated for lost sums due to WSC’s failure to properly terminate his employment contract by non-renewal in accordance with the School Administrators’ Rights Act.

The pertinent facts were found by the Commissioner as follows. On March 9, 2016 Mr. Bleczinski was provided with a “Notice of Non-renewal and Statement of Reasons” (the “Notice”) from WSC, notifying him that his employment contract as an assistant principal would not be renewed in the succeeding school year. The Notice stated that the non-renewal was not for performance, but rather due to restructuring and availability of funds. Mr. Bleczinski appealed the Notice to the WSC and on July 28, 2016, a hearing was conducted before a quorum of the School Committee. The WSC members voted 3-1 to uphold the decision to non-renew Mr. Bleczinski’s contract of employment. WSC reorganized and consolidated its schools and achieved significant costs savings. However, both before and after the reorganization it

employed nine (9) assistant principals. Mr. Bleczinski was the only administrator out of thirteen (13) serving prior to the reorganization that was not reassigned and was instead non-renewed. In the fiscal year following the non-renewal, the budget for assistant principals at the secondary level increased over the amount budgeted in the previous year.

Mr. Bleczinski appealed the decision of the WSC to the Commissioner on August 25, 2016. He argued that the Notice was defective under the School Administrators' Rights Act because the reasons provided were not actually present in this non-renewal decision. *See* Rhode Island General Laws ("RIGL") 16-12.1-1. Further, Bleczinski argued that his due process rights were violated because WSC explicitly stated that his performance was not a reason for the non-renewal, preventing him from challenging the notice on those grounds. Meanwhile, a vacant assistant principal position was instead filled with an outside candidate that the WSC viewed as "outstanding", showing that the reason for his non-renewal was in fact related to his performance. WSC countered that it is inappropriate for the Commissioner to look behind the reasons for the Notice. The Notice stated adequate reasons for non-renewal, restructuring and fiscal exigency, and both a reorganization and associated budget savings did in fact occur. Therefore, the WSC reasons, there are no grounds to overturn the WSC non-renewal.

In a decision dated June 15, 2018 (the "Decision"), the Commissioner found that the Notice was defective because the reasons enumerated in the Notice were not present, as required by RIG §36-12.1-3. While a reorganization did occur, all administrators seeking to remain with the WSC were either kept or reassigned with the exception of Mr. Bleczinski. Additionally, although Mr. Bleczinski was non-renewed, the same number of assistant principals was employed before and after the reorganization. Lastly, the remaining reasons stated in the Notice, fiscal exigency and availability of funds, were not established on the record. WSC was unable to

point to evidence of fiscal constraints. Further, the funds budgeted for assistant principals increased in the year after the reorganization. Therefore, the Commissioner determined that Mr. Bleczinski's services were not properly terminated by non-renewal, and instructed WSC to reinstate Mr. Bleczinski and compensate him for any lost sums.

WSC appealed the Decision claiming error in adding a new burden of proof for non-renewal and effectively requiring WSC to prove "just cause" for the non-renewal. Further, WSC asks that in the event the Decision is upheld, we order the payment of funds to Mr. Bleczinski from the Department of Education due to a "negligent and unexplained delay." We have reviewed the record, the party's briefs, and considered the oral argument presented. We disagree that the Decision has changed the standard for administrator non-renewal, and find that WSC has presented no grounds to reverse or modify the Decision under our standard of review.

In considering WSC's appeal, we are mindful of the standard of review for appeals brought to the Council on Elementary and Secondary Education ("Council"). Review is limited to whether the Commissioner's decision is "patently arbitrary, discriminatory, or unfair." Altman v. School Committee of the Town of Scituate, 115 R.I. 399, 405 (R.I. 1975).

The Commissioner found that the reasons stated in the Notice were not present in this matter. First, the Commissioner noted that the reorganization "was actually a series of non-arbitrary reassignments" Decision at 10. Further, the Notice explicitly disclaimed performance as a reason for the non-renewal. Id. Therefore, the Commissioner found that there was nothing left on the record to explain why he was the only administrator not reassigned and instead non-renewed (" . . . the School Committee raises the question of what precisely is the reason that he remained the only person without a job after an extensive reorganization of

Warwick's administrative staff. Based on this record, we find that none of the cited reasons explains or justifies his non-renewal." Id. at 9-10.

Second, the Decision found that "[t]he existence of 'fiscal exigency' or lack of 'availability of funding' was not established on this record." Id. at 10. Here again, this is a factual finding by the Commissioner that the facts in this matter are not present to support the claims made in this particular Notice. In reviewing both aspects of the Notice, as well as the one reason explicitly disclaimed by the Notice, the Commissioner clearly indicates in the Decision that the facts on the record do not support the enumerated reasons in the Notice. Once again, this is not the creation of a new standard requiring a finding of "just cause" for an administrator non-renewal. Instead, it is merely an evaluation of the facts of this matter and the sufficiency of this particular Notice as guided by those facts.

Lastly, as it relates to WSC's request for an order that the Department of Education be responsible for paying Mr. Bleczinski, we have no authority to carry out such a request. The Council on Elementary and Secondary Education's (the "Council") only purview in appeals is to review decisions of the Commissioner to determine whether they are patently arbitrary, discriminatory, or unfair. Altman at 405. We have no ability to find facts in this role, which would be needed for the Council to determine that any delay in the issuance of a decision was in fact "negligent and unexplained." We have no evidence on the record or findings of fact to support such an allegation. Additionally, WSC does not point to any authority of the Council to carry out such an order.

No part of the Commissioner's decision is "patently arbitrary, discriminatory or unfair." Altman at 405. WSC has presented no grounds to reverse or modify the Commissioner's decision under the Council's standard of review.

For the reasons stated herein, the decision of the Commissioner is affirmed.

The above is the decision recommended by the Appeals Committee after due consideration of the record, memoranda filed on behalf of the parties and oral arguments made at the hearing of the appeal on November 5, 2018.

Council on Elementary and Secondary Education,

Daniel P. McConaghy, Chair

December 4, 2018

Amy Beretta, Appeals Committee Chair

December 4, 2018